

APPEAL NO. 022179
FILED OCTOBER 3, 2002

This appeal arises pursuant to the Texas Workers' Compensation Act, TEX. LAB. CODE ANN. § 401.001 *et seq.* (1989 Act). A contested case hearing was held on July 30, 2002. The hearing officer determined that the appellant (claimant) is not entitled to supplemental income benefits (SIBs) for the sixth quarter. The claimant appealed, asserting that he did make a good faith job search effort, that he did meet with the Texas Rehabilitation Commission (TRC), and that he is "currently enrolled and sponsored" by the TRC. The file does not contain a response from the respondent (carrier).

DECISION

Affirmed.

The parties stipulated that the qualifying period for the quarter in question began on November 21, 2001, and continued through February 19, 2002. In evidence was an application for TRC services dated February 12, 2002, and an individualized plan for employment dated April 8, 2002. No documentary evidence was presented indicating that the claimant was enrolled in and satisfactorily participating in, a full time vocational rehabilitation program sponsored by the TRC during the qualifying period in question.

Whether a claimant satisfied the good faith requirement for SIBs entitlement is a question of fact for the hearing officer to resolve pursuant to the requirements of TEX. W.C. Comm'n, 28 TEX. ADMIN. CODE §§130.102(d) and (e) (Rules 130.102(d) and (e)). The hearing officer determined that the claimant did not satisfy this requirement by either showing that he had made a good faith job search effort or that he was enrolled in, and satisfactorily participating in, a full time vocational rehabilitation program sponsored by the TRC during the qualifying period in question. Section 410.165(a) provides that the hearing officer, as finder of fact, is the sole judge of the relevance and materiality of the evidence as well as of the weight and credibility that is to be given the evidence. It was for the hearing officer, as trier of fact, to resolve the inconsistencies and conflicts in the evidence. Garza v. Commercial Insurance Company of Newark, New Jersey, 508 S.W.2d 701 (Tex. Civ. App.-Amarillo 1974, no writ). The trier of fact may believe all, part, or none of the testimony of any witness. Aetna Insurance Company v. English, 204 S.W.2d 850 (Tex. Civ. App.-Fort Worth 1947, no writ). When reviewing a hearing officer's decision for factual sufficiency of the evidence, we should reverse such decision only if it is so contrary to the great weight and preponderance of the evidence as to be clearly wrong and unjust. Cain v. Bain, 709 S.W.2d 175, 176 (Tex. 1986); Pool v. Ford Motor Co., 715 S.W.2d 629, 635 (Tex. 1986). Applying this standard, we find no grounds to reverse the decision of the hearing officer.

The decision and order of the hearing officer are affirmed.

The true corporate name of the insurance carrier is **LIBERTY MUTUAL INSURANCE COMPANY** and the name and address of its registered agent for service of process is

**CT CORPORATION SYSTEMS
350 NORTH ST. PAUL, SUITE 2900
DALLAS, TEXAS 75201.**

Susan M. Kelley
Appeals Judge

CONCUR:

Gary L. Kilgore
Appeals Judge

Margaret L. Turner
Appeals Judge